

## §41.1

## 18 CFR Ch. I (4–1–00 Edition)

### CERTIFICATION OF COMPLIANCE WITH ACCOUNTING REGULATIONS

- 41.10 Examination of accounts.
- 41.11 Report of certification.
- 41.12 Qualifications of accountants.

AUTHORITY: 16 U.S.C. 791a–825r, 2601–2645; 42 U.S.C. 7101–7352.

SOURCE: Order 141, 12 FR 8500, Dec. 19, 1947, unless otherwise noted.

CROSS REFERENCE: For rules of practice and procedure, see part 385 of this chapter.

### ADJUSTMENTS OF ACCOUNTS AND REPORTS

#### §41.1 Notice of deficiencies.

If, as the result of an examination by a representative of the Commission of the accounts of a person subject to the act and to the Commission's accounting requirements, or of an examination of any statement or report submitted by such person, it appears that the accounts, or any books or records pertaining to or in support thereof, are not being kept and maintained as required by the Commission, or that the statements or reports prepared and submitted are not in proper form, the failure or deficiency will be called to the attention of such person either formally or informally as the circumstances appear to warrant.

#### §41.2 Response to notification.

If, as the result of such formal or informal notice, the matter is not adjusted within the time fixed by said notice, or within a reasonable time in case no date is specified, or if there is a disagreement between such person and the Commission or its representative respecting the application or interpretation of the act or requirements of the Commission with respect to the matter at issue, such person will be requested to advise the Commission in writing within a time to be specified whether it consents to the disposition of the questions involved under the shortened procedure provided in this part.

#### §41.3 Facts and argument.

If the person consents to the matter being handled under such shortened procedure, the person and any other parties interested, including representatives of the Commission, shall submit

to the Commission, within 30 days after the receipt of notice from the Commission to do so, a memorandum of the facts and, separately stated, of the argument relied upon, to sustain the position taken respecting the matter at issue together with copies in sufficient number to enable the Commission to retain three copies for its own use and make service in accordance with §385.2010 of this chapter, upon all parties designated in said notice. Twenty days will be allowed in which to file a reply by any party who filed an original memorandum. If a person consents to the matter being handled under the shortened procedure, that person has waived any right to subsequently request a hearing under §41.7 and may not later request such a hearing.

[Order 141, 12 FR 8500, Dec. 19, 1947, as amended by Order 225, 47 FR 19056, May 3, 1982; Order 575, 60 FR 4854, Jan. 25, 1995]

#### §41.4 Form and style.

Each copy of such memorandum must be complete in itself. All pertinent data should be set forth fully, and each memorandum should set out the facts and argument as prescribed for briefs in §385.706 of this chapter.

[Order 141, 12 FR 8500, Dec. 19, 1947, as amended by Order 225, 47 FR 19056, May 3, 1982]

#### §41.5 Verification.

The facts stated in the memorandum must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit. Except under unusual circumstances, such persons should be those who would appear as witnesses if hearing were had to testify as to the facts stated in the memorandum.

#### §41.6 Determination.

If no formal hearing is had the matter in issue will be determined by the Commission on the basis of the facts and arguments submitted.

#### §41.7 Assignment for oral hearing.

Except when there are no material facts in dispute, when a person does not consent to the shortened procedure, the Commission will assign the